

### **REMARKS**

This paper is responsive to any paper(s) indicated above, and is responsive in any other manner indicated below.

### **PENDING CLAIMS**

Claims 13-33 were pending, under consideration and subjected to examination in the Office Action. Appropriate claims have been amended, canceled and/or added (without prejudice or disclaimer) in order to adjust a clarity and/or focus of Applicant's claimed invention. That is, such changes are unrelated to any prior art or scope adjustment and are simply refocused claims in which Applicant is presently interested. At entry of this paper, Claims 14-21 and 23-33 will be pending for further consideration and examination in the application.

### **CLAIM OBJECTIONS OBVIATED VIA CLAIM AMENDMENT**

Claims 14, 18, 19, 23 and 29 have been objected to because of the Office Action concerns listed within the "Claim Objections" section beginning on page 2 of the Office Action. As amendments have been made where appropriate in order to address each of the Office Action listed concerns, reconsideration and withdrawal of the claim objection are respectfully requested. That is, the Amendments suggested within the Office Action have been adopted by Applicant. The Examiner is respectfully thanked for such kind guidance.

### **REJECTION UNDER '112, 2ND PAR. OBIATED VIA CLAIM AMENDMENT**

Claims 15, 20, 24 and 30 have been rejected under 35 USC '112, second paragraph, as being indefinite for the concerns listed within the section numbered "4" beginning on page 3 of the Office Action. Such claims have been carefully reviewed and carefully amended where appropriate in order to address the Office Action listed concerns. That is, the original phrase "predetermined plane" has been given further clarity by being amended to the phrase "predetermined plane where a spherical aberration becomes substantially zero". Such amendment is supported by Applicant's original specification text, for example, at page 25, line 14 through page 26, line 21. As the foregoing is believed to have addressed all '112 second paragraph concerns, reconsideration and withdrawal of the '112 second paragraph rejection are respectfully requested.

### **ALLOWED CLAIMS**

Claims 23, 25, 27, 29 and 31-33 have been allowed in the application, as indicated within the section number "8" on page 7 of the Office Action. Applicant and the undersigned respectfully thank the Examiner for such indication of allowable subject matter.

### **REWRITTEN ALLOWABLE CLAIM(S)**

Claims 14, 16-21, 26, 28 and 30 have been indicated as being allowable if rewritten, as indicated within the sections numbered "9" and "10" on page 7 of the Office Action. Claims 14 and 16-21 have been rewritten into independent form, and accordingly, reconsideration and renewal of the allowance of such rewritten claims

are respectfully requested. Claim 30 has been rewritten to address any claim objection and/or 112, 2<sup>nd</sup> para. rejection, and accordingly, reconsideration and renewal of the allowance of such rewritten claims are respectfully requested. Claims 26, 28 and 30 have not been rewritten at this time, because it is believed that the independent claims from which claims 26, 28 and 30 depend will be allowed responsive to this response; however, Applicant respectfully reserves the right to rewrite such claims if ultimately found necessary. Again, Applicant and the undersigned respectfully thank the Examiner for such indication of allowable subject matter.

**IIDA ET AL. 35 USC '102 REJECT. - OBSOLETE VIA CLAIM CANCELLATION**

The 35 USC '102 rejection of claims 13 and 22 as being anticipated by Iida et al. (U.S. Patent 5,171,392) is respectfully traversed, but the present cancellation of such claims (without prejudice or disclaimer) to allow the application to proceed as quickly as possible (with fewer issues), has rendered such rejection(s) obsolete. Thus, gratuitous traversal arguments concerning the rejection(s) are omitted for brevity, and further discussions/arguments concerning such rejection(s) are left for the future if/when appropriate. Based upon the following, reconsideration and withdrawal of such rejection(s) are respectfully requested.

The above statements, or any present cancellation of claims (without prejudice or disclaimer), should not be taken as an indication or admission that the rejection was valid, or as a disclaimer of any scope or subject matter, but is merely use of a procedural approach to allow a remainder of the application to proceed as quickly as possible.

**NAGASHIMA ET AL. 35 USC '102 REJECT. - TRAVERSED**

The 35 USC '102 rejection of claims 13, 15 and 24 as being anticipated by Nagashima et al. (U.S. Patent 5,134,604) is respectfully traversed. However, such rejections have been rendered obsolete by the present clarifying amendments to Applicant's claims, and accordingly, traversal arguments are not appropriate at this time. However, Applicant respectfully submits the following to preclude renewal of any such rejections against Applicant's clarified claims.

All descriptions of Applicant's disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated hereat by reference. Further, all Office Action statements regarding the prior art rejections are respectfully traversed. As additional arguments, Applicant respectfully submits the following.

Unrelated to any prior art rejection, claim 13 has now been canceled without prejudice or disclaimer, for the reasons indicated above. Patentability of remaining ones of the rejected claims are supported as follows.

In order to properly support a '102 anticipatory-type rejection, any applied art reference must disclose each and every limitation of any rejected claim. The applied art does not adequately support a '102 anticipatory-type rejection because, at minimum, such applied art does not disclose (or suggest) the following discussed limitations of Applicant's claims.

Applicant's disclosed and claimed invention is directed to optical disk medium arrangements having multiple reflecting films (i.e., multiple recording/reproducing layers) capable of stably recording and reproducing information, while suppressing

cross-talk between adjacent layers. One important feature of Applicant's arrangement is presented in the limitations: "wherein the first and second reflecting films lie in a range from a predetermined plane where a spherical aberration becomes substantially zero, to  $\pm 50\mu\text{m}$  in a direction perpendicular to the substrate.

It is respectfully submitted that Nagashima et al. would not have adequately supported a 102 anticipatory-type rejection, because Nagashima et al. contains no teachings realizing (or even suggesting) the above-indicated features/limitations of Applicant's claims. More particularly, while Nagashima et al.'s col. 4, lines 13-16 regarding Nagashima et al.'s FIG. 1, recites a "...distance between the top and bottom data surfaces 2 and 5, in which the transparent material 4 is located, is sufficiently large, such as  $100\mu\text{m}$  or greater...", such  $100\mu\text{m}$  distance is not disclosed as being with respect to Applicant's "predetermined plane where a spherical aberration becomes substantially zero".

In addition to the foregoing, the following additional remarks from Applicant's foreign representative are also submitted in support of traversal of the rejection and patentability of Applicant's claims.

For Claims 15 and 24, Nagashima et al.'s Fig. 1 and description on col.4, lines 6-20 teach that the interval distance between two planes where the light is irradiated should be made as large as possible, preferably equal to or greater than  $100\mu\text{m}$ . In Nagashima et al., there is no predetermined or reference plane. In short, Nagashima discloses a technique necessary for the interval distance of  $100\mu\text{m}$  or more between the two planes

In contrast, because Applicant's thickness of reflection film is required for a range from the predetermined or reference plane to  $\pm 50\mu\text{m}$ , it would be  $100\mu\text{m}$  in

maximum. However, the present invention not only defines a thickness which is less than 100  $\mu\text{m}$ , but also defines a place where the plane is present. Specifically, the present invention defines a place or predetermined or reference plane from which  $\pm 50 \mu\text{m}$  is ranged, which is quite different from Nagashima that simply defines 100  $\mu\text{m}$  in the distance. Moreover, the present invention defines the distance which does not exceed 100  $\mu\text{m}$ , but Nagashima defines that the distance may be equal to or greater than 100  $\mu\text{m}$ . This point is also big difference.

As a result of all of the foregoing, it is respectfully submitted that the applied art would not support a '102 anticipatory-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such '102 rejection, and express written allowance of all of the '102 rejected claims, are respectfully requested.

#### **EXAMINER INVITED TO TELEPHONE**

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

#### **RESERVATION OF RIGHTS**

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any

objection/rejection was valid, or as a disclaimer of any scope or subject matter.

Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

### **CONCLUSION**

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR '1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (Case No. 500.31617CX1) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,

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A handwritten signature in cursive script, appearing to read "Paul J. Skwierawski".

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